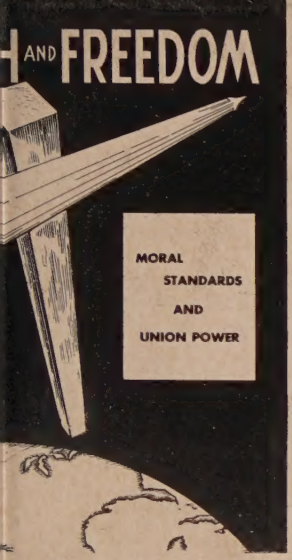


The Rightness of the Right to Work

UNION 1962

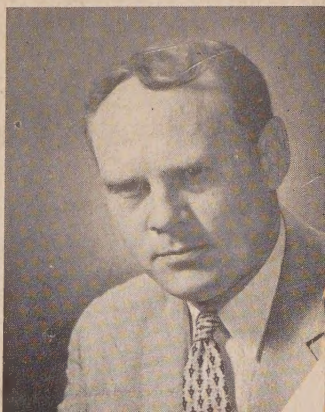
A Clergyman's Reply to the Moral and Religious Arguments for Compulsory Unionism

by

The Reverend Edward W. Greenfield
with an introduction by
Cecil B. deMille

UNION 1962

PUBLISHED AT CAMPBELL HOUSE
as a supplement to
New Perspectives in
FAITH AND FREEDOM,
a journal of thoughtful
religious opinion on social problems



INTRODUCTION

The clergy of America are rightly regarded as one of the most influential groups of opinion-molders in the country. With that great influence goes great responsibility. Our ministers' right to speak out on the moral aspects of social and economic questions goes hand-in-hand with a duty to be well-informed on those questions.

This booklet by the Reverend Edward W. Greenfield is an outstanding contribution to the discussion of one of the most important of those questions—the Right to Work.

Mr. Greenfield does not write from an ivory tower.* He has the theological background, the deeply Christian concern, and the mental habits of fair and balanced judgment which characterize the best of the American ministry. He has spent three years as a laborer in industry; he has devotedly served congregations which included laboring people; and in his personal situation he has faced, more than most men ever have to face, the kind of testing which entitles a man to be heard when he speaks of what he knows.

Mr. Greenfield knows his subject—at much closer range than do some of his fellow-clergymen with whose views he differs in this booklet. Yet he states their views always fairly and courteously, while convincingly stating his own view, which is the traditional American and Christian view of individual liberty.

I heartily commend this booklet as one of the most thoughtful, closely reasoned, well documented, and persuasive statements I have read on the rightness of the Right to Work.

Cecil B. deMille

*Mr. Greenfield was until June, 1958, pastor of the First Presbyterian Church of Princeton, Indiana. During this pastorate he shared the struggle of union members against the irresponsibility of union leaders in the violence-ridden "wildcat" strike in Princeton, winter of 1956-57. He is now editor of *Faith and Freedom* for Spiritual Mobilization.

The Rightness of the Right to Work

by

THE REV. EDWARD W. GREENFIELD

On July 10, 1958, Mr. Larue Berfield, age 38, the father of two children, was fired by the Sylvania Electric Company of Emporium, Pennsylvania, after nineteen years of faithful employment, continuous except for four years of military service. No dissatisfaction was expressed in regard to his character or work. As a member of the local School Board and of the Civil Defense Organization, he was a respected and responsible member of his community.

He was fired because he refused to join or financially support a union.

He had a reason. The union was the United Electrical, Radio, and Machine Workers of America (UE), which was expelled from the CIO in 1949 for reason of being Communist-dominated. In January, 1958, the UE had won an election by a small majority to become the official bargaining agent for Sylvania employees, and shortly thereafter secured a union shop clause in its contract. The "union" shop meant that all workers must join or pay dues after thirty days.

Mr. Berfield did not object to unions, but he happened to have conscientious scruples against supporting a union whose leadership was reprehensible to his own convictions. When he refused to join or tender dues, his employer, whether willing or not, was compelled by the terms of the "union shop" clause to deprive him of his employment.

I. PROBLEM OF THE "UNION SHOP"

The story of Mr. Berfield is exceptional in at least one respect: the number of men with sufficient courage

of conviction to resist compulsory membership in a union is small. The story nevertheless establishes a point. Union leaders and others frequently argue that the only reason workers refuse to join is the selfish desire for a "free ride" at the expense of members who engage in the struggle for union benefits. While this may occasionally be true, fairness suggests that other reasons also be noted.

One of these is certainly the Communist influence, wherever this appears. Ten fairly large unions were expelled by the CIO in 1949 as Communist dominated, and most of them continue to flourish. Congressional investigations have indicated that individual locals of many other national or international unions are Communist dominated. Corruption and racketeering, as shown by the McClellan Committee to exist in a surprisingly large part of the labor union movement, is a further reason. The increasing tendency of unions to become political organizations, using dues for partisan political purposes opposed to the convictions of many members, is still another. One of the oldest reasons for resisting any kind of union organization is the doubt on the part of working people that unions actually serve the best interests of wage-earners. When they consider the propensity for internal dictatorship, violence, inflationary wage demands, opposition to improvements in the art of production, and other dangerous measures, they seriously question whether the good may not be over-balanced by the bad.* Further

* Economic authorities differ on the long-range benefits conferred by labor unions. The benefits are carefully examined in such works as *The Impact of the Labor Unions*, edited by David McCord Wright (1951);*The Theory of Collective Bargaining* by W. H. Hutt (1954); *Labor Unions and Public Policy*, by Edward H. Chamberlin, Philip D. Bradley, Gerard D. Reilly, and Roscoe Pound (1958). When learned economists disagree, the rank and file workingman cannot be blamed for having doubts of his own; and forcibly over-riding his judgment regarding his own interests is an entirely arbitrary invasion of freedom of conscience.

reasons range from conscientious religious scruples to the conviction that a given union no longer represents the workman as an individual or rank-and-file members as a group.

THE ISSUE ILLUSTRATED

This last was illustrated in the "wildcat" strike at Princeton, Indiana, when some 150 members of the Local Lodge of the International Association of Machinists (IAM) presumed to go through the picket line to their jobs at the Potter and Brumfield Company. For three weeks, in November, 1956, these workers had tried every means at their command to secure adherence of their union to its own contract with the company and its own constitution. Failing, they returned to their jobs, and, in consequence, were subjected to three tortuous months of abuse.

Nevertheless, the Representative of the International Union reminded them that they must continue to pay their dues—dues which would help finance the very organization that was refusing to represent them in attempts to settle the strike, and resorting to intimidation and violence to keep them from work. Failure to pay dues would mean, when the strike was over, that the very employer who depended upon them for such operations as he was able to maintain, would have to fire them.

There is a further illustration from Indiana of cynical disregard for the interests of workers. Indiana's Right-to-Work Bill was passed by the State Legislature almost simultaneously with the end of the Princeton strike—the end of February, 1957. The law was not to go into effect, however, until summer, and was not to apply to existing union shop contracts until those contracts expired. Between February and June, the leaders of a large number of unions approached

employers with offers of relaxed demands—what are sometimes called "sweetheart" agreements—in exchange for extending the life of existing contracts for two to three years.

For the sake of retaining the compulsory membership of the "union shop," labor leaders were willing to deny their members a chance to bargain during the next two to three years for improved wages and conditions of work! Many an employer, as indifferent as the union leaders to the interests and freedom of employees, did not hesitate to sign!

THE ISSUE DEFINED

Here, then, in graphic form, is the meaning of compulsory unionism. The leaders of a union which has become the bargaining agent in a given industry go to the employer and demand a "union shop." When the employer has been persuaded to sign a union shop agreement, he must henceforth terminate the employment of any employee who refuses to join or at least pay union dues.

There are variations in compulsory unionism,* but

* (a) *The closed shop* requires union membership *before* employment, and maintenance of membership thereafter. It is outlawed in interstate commerce by the Taft-Hartley Act, but still exists in many areas in violation of the law. It also exists in many areas not covered by Taft-Hartley.

(b) *The union shop* is an agreement that all workers must join the union within a specified period, usually 30 or 60 days, after beginning employment. The Taft-Hartley Act permits a modified form of union shop where it is permitted by state law, but disavows any intention to interfere with the authority of individual states to forbid the union shop by right-to-work laws. The "union shop" should not be confused with having a union *in* a shop.

(c) *A maintenance-of-membership agreement* requires those who belong to a union to remain as members during the life of the contract. Those who wish may withdraw within a specified time of the contract signature or when the contract expires.

(d) *The agency shop* requires payment of dues, ostensibly to pay the costs of collective bargaining, but does not require actual union membership.

(e) *The open shop* is one in which there is no union serving as a bargaining agent, or in which the union is acting as bargaining agent without compulsory membership.

this is its essence: a workman must belong to, and/or support, a union, or else, irrespective of his qualifications, he loses his right to work. It is no longer the employer who decides whether a man may remain in his employment; it is the union, though the employer must do the firing. This remains true whether the union leadership be Communist, corrupt, politically partisan, or otherwise indifferent to the rights and interests of union members. The workman has lost his freedom of choice in regard to joining or not joining a union; he has been deprived of his most effective means of protest, namely, withdrawal of support when he does not approve of union policies and leadership; he has been denied his right to hold his job unless he pays his money into the union treasury.

AND SO, THE "RIGHT-TO-WORK" CONTROVERSY

This is the situation that has exploded into hot debate and furious political controversy throughout America as the "right-to-work" issue. Prior to 1958 the right to work has been an issue in no more than three states in any political season; in 1958 it is a political issue in at least six. Eighteen states—eleven in the South and seven in the North—have already enacted right-to-work laws. In another state, Louisiana, such a law was recently repealed, and vigorous effort is being made by union leaders to repeal it elsewhere, as well as prevent new enactments.

There seems little question that in the next few years the lines of battle *vis a vis* corruption and concentration of power in the hands of union leaders will be drawn upon this issue more than any other. These leaders have expressed their intention to spend money

in the millions to fight right-to-work legislation; forces on the other side, representing business and farm groups as well as union members and countless numbers of the more than seventy per cent of American workers who still do not belong, are equally determined, if not so well financed, to secure such legislation.

It is an issue upon which the social, economic, and political destiny of the nation may well depend! If the political and economic power of union leadership continues to grow, Bishop Oxnam's prophecy that "tomorrow's world is to be labor's world," may well come to pass. Again in Oxnam's words, "the labor movements of the world are at the task of building a new economic order."(1) If, in the Bishop's further word, "the kind of world that labor will build will be determined by the kind of labor leaders labor possesses," (2) it has become increasingly a danger that the "new economic order" will be at best collectivistic or at worst gangster-dominated!

RELIGIOUS SPOKESMEN AND "RIGHT-TO-WORK"

It is this danger inherent in compulsory unionism that makes the matter so emphatically a moral issue. It is the moral issue that concerns me as a clergyman who has been led by considerations of principle and experience to favor the side of voluntary unionism. It is as a clergyman and on moral grounds that I am disturbed by pronouncements made public by clerical colleagues and ecclesiastical bodies in defense of compulsory unionism. It is to several of these pronouncements that this essay is addressed.

For the past three years the International Association of Machinists (IAM) has been circulating a booklet called *Three Moral Studies* on the right-to-work question by "An Oblate Father, an Eminent Rabbi, and

a Methodist Dean." (3) Each of these clergymen subjects the question to moral and religious analysis and arrives at an identical conclusion favoring compulsory union membership. The California State Federation of Labor has issued a leaflet entitled *A Moral Look at Right-to-Work Laws*, also providing brief statements by Protestant, Catholic, and Jewish leaders against the right to work. (4) The Division of Christian Life and Work of the National Council of Churches, while reaching a less pronounced position, nevertheless concludes with a view that is likewise favorable to union leaders in a semi-official booklet, *Union Membership as a Condition of Employment.* (5) A number of other statements from religious sources have recently appeared, particularly from denominational groups, for the most part echoing the foregoing.

I personally agree with the general position of all these religious spokesmen in recognizing that labor unions have made a contribution to improving the status, conditions of work, and standard of living for many working people. While we might disagree as to the extent and character of this contribution, there is nothing on either side but a profound concern for the dignity of laboring people, a firm belief in their right to organize for purposes of collective bargaining, and appreciation for the services that labor unions *can* render to workers, employers, and the entire community. I have yet to meet a responsible individual in any walk of life who is hostile to the laboring man or to union organization as such.

II. RE-EXAMINING THE RELIGIOUS PRONOUNCEMENTS

But beyond these areas of essential agreement, indeed *because* of agreement at these points, it must be insisted that, as sincere as these men may be, the sup-

port they give to compulsory unionism is logically inconsistent and morally untenable. That inconsistencies and fallacies may arise on both sides of an argument is clearly evident; nevertheless, those which appear among the proponents of compulsory unionism are especially curious and even glaring.

The most obvious and fundamental is the persistent tendency to conjoin what they regard as the value of unions with the use of compulsion in securing union members. The argument can be reduced to a syllogism:

Unions are good;
Anything good should be supported;
Therefore unions should be supported *by compulsion.*

In view of the Communist influences and/or the violence, corruption, and undemocratic practices now revealed by Congressional investigation to exist in a number of unions, the degree of truth in the unqualified premise, "unions are good," must surely be reassessed. Nevertheless, adopting the premise for sake of argument, it takes little reflection to recognize the fallacy of the argumentative leap. It becomes clear if we supply other terms for "union." For example:

Churches are good (or lodges or clubs);
Anything good should be supported;
Therefore everyone should be *forced* to join a church (or lodge or club).

In succumbing to such equivocation, the religious spokesmen are applying to industrial relations a principle which not one of them, I am sure, would tolerate if applied to any other area of human activity, least of all their own area of religious freedom!

COMPULSION IS THE PROBLEM

Whether it be finally agreed that unions are wholly good or only qualifiedly good, the basic issue is precisely this matter of compulsion, and the logical and

moral dodges to justify it are often artful. In final analysis, it reduces to the philosophical question of how to justify compulsion while nevertheless preserving individual freedom. Thus, the National Council of Churches statement declares:

> "The right of individuals to have a maximum of freedom of choice in selection of types and conditions of work is basic but not absolute. . . . Some element of compulsion is present in almost every association of individuals. All men are confronted from time to time with the necessity of yielding to the interests and welfare of others. They are also, at times, under the moral necessity of resisting those compulsions which threaten to destroy them as free and responsible agents of their own minds and consciences. . . . The question of compulsion is one of the more delicate of moral questions, and it has a special bearing on the question of whether membership in labor unions should be made a condition of employment." (6)

With this general statement it would be difficult to quarrel; it is in some of its ramifications and applications that, as the statement itself acknowledges, the problem arises. For example, in supporting the National Council's position on the right to work, a Methodist pronouncement (7) uses the analogy of the "stop and go traffic light," saying that "the individual limits his right to drive freely through the intersection, whenever he wishes, in exchange for the safety of movement obtained when he goes only on the green light." After arguing that "such limitation of the quantity of a right is generally agreed upon in the interest of improving the quality of that right," the Methodist statement proceeds to justify compulsory union membership.

The argument is subtle and doubtless sincere, but a moment's thought will reveal its logical application as the *reverse* of the conclusion reached. When the law requires me to stop at an intersection, it is reinforcing my moral obligation to respect *your right* to cross. It

likewise reinforces *my right* to cross by restraining you. What is present in the "stop-and-go" situation is precisely the purpose of recognizing the right to work: reinforcing by law the moral obligation of one party (the union in combination with management) to respect the rights of individual workers. Compulsory unionism, on the other hand, is comparable to monopolizing the green light in a way that places a permanent red light against the workingman's freedom in an area of vital concern.

In its own application of the relation of compulsion to freedom, the National Council of Churches takes the position, adopted by so many other religious bodies and by unions themselves:

> "Union membership as a basis of continued employment should be neither required nor forbidden by law: the decision should be left to agreement by management and labor through the process of collective bargaining."

The apparent reasonableness of this gives it strong appeal, especially to those who wish to be judicious and fair.

REALITIES OVERLOOKED

But there are hidden jokers here, for at least three unpleasant realities are overlooked, all of which fail to recognize the moral obligation to respect the rights and freedom of others.

1. The "Yellow Dog" Contracts

In the first place, the National Council statement speaks of "the freedom of management and labor to negotiate such agreements [relative to the union shop] without the restraints of 'right-to-work' laws." One of the clergymen cited by the IAM booklet deplores the injection of right-to-work laws into such bargaining as "an intrusion by the state into an area properly re-

served for private action." (8) It would be refreshing to hear religious leaders speak more frequently against "intrusion by the state" in other areas of social concern; it should be noted that unions are exceedingly active in seeking or supporting social and economic legislation when it accords with their views of justice; but, be that as it may, what is ignored here is that the state has *already* intruded with its restraint by outlawing contracts *forbidding* union membership.

The reference is to what has long been called the "yellow dog" contract, in which an employer, as a condition of employment, required that a workman sign a promise not to join a union, on pain of losing his job. The "yellow dog" contract was fought for years by organized labor, with strong support from liberals within and without the church, as unfair and as a denial of the worker's freedom of choice in a monopoly of the "green light" by employers. Since the Norris-LaGuardia Act of 1932, reaffirmed by the Wagner Act of 1935, and the Taft-Hartley Act of 1947, this kind of contractual agreement has been outlawed, giving unions their fair share of the green light. Employers were forbidden to enter any kind of contractual agreement that would hinder the organization of a union among their employees.*

If the question of union membership as a condition of employment is therefore to be left entirely to agreement between employers and union agents, either of a pair of alternatives must be recognized. Either the

* The Norris-LaGuardia Act actually outlawed both types of compulsory agreement—the "yellow dog" contracts *and* the compulsory union membership agreement. The Wagner Act renewed the ban on the "yellow dog" contract but, with some qualifications, removed the ban on compulsory union membership. Taft-Hartley followed suit, but prohibited the closed shop and permitted only a modified type of union shop. It should be noted that state right-to-work laws follow the principles of the Norris-LaGuardia Act by forbidding both types of infringement upon the rights of workers.

"right" of employers to forbid union membership must be restored, or the "right" of the union bargaining agents to demand compulsory membership must be denied. Under present law, the intrusion of the state in the matter of "freedom of contract" is entirely on one side. Either employers and union agents must be equally free or equally restrained. If it is morally wrong for employers to *deny* freedom of association, it is just as wrong for union agents to *compel* such association. As frequently observed, compulsory union membership is "the yellow dog contract in reverse."

2. Agreements Not Always Voluntary

The one-sidedness of present law becomes apparent in the light of the second reality that is overlooked, namely, that union leaders, in accusing business and industrial leaders of being the primary supporters of the right to work, themselves recognize that most employers are opposed to compulsory union membership. If nevertheless they sign union shop contracts, it may therefore be for either of two reasons: to avoid the costly strike that is otherwise threatened, or to gain concessions in the way of lessened demands for wages and other benefits. In short, so far from being a "voluntary agreement," bargained in good faith, the union shop is frequently secured by methods resembling bribery or blackmail!

The picture is not improved when employers and union leaders are equally unscrupulous. When cynical employers and union leaders get together it is almost always to the detriment of the workers. On the other side of the picture, leaving the union shop to agreement between union and management places the concerned and conscientious employer in the awkward situation of being the only defender the non-union employee has.

3. Individual Rights Invaded

Leaving the matter of the union shop to agreement between management and union agency, however, is morally wrong for a far graver reason, even assuming that the employer is completely willing without special inducements. An analogy will help to explain. Three people live alongside one another in a small community. Two of them get together and agree that the third should contribute to a community improvement association, or, if he refuses, they will combine to run him out of town. If such an agreement were to be made, we would not hesitate to call it what it is—an arbitrary and morally indefensible invasion of the liberty and property of the third man!

Yet this is precisely what happens in principle when union leaders go to employers demanding consent to exact tribute from employees on pain of expulsion from the working community for non-payment of dues. Nowhere in Christian concern for the integrity of individuals can we justify the "right" of two private parties to make a contract affecting a third party without his consent. To sanction such procedure would be to expose every man to invasion and exploitation by well-meaning or unscrupulous neighbors. If such action is morally and legally defensible, why may not a church go to public officials and, on the basis of its claim to doing good for the entire community, demand a law requiring every citizen to contribute to the church treasury? Such a claim actually was made by the established churches at the beginning of the American Republic until stricken down by the "Statute of Virginia for Religious Freedom" in 1786 and the First Amendment to the Constitution in 1791.

III. THE CHIEF ARGUMENTS FOR COMPULSION

This patent absurdity of insisting on "freedom of contract" in order to permit coercion of workers who may or may not wish to be union members is defended by at least two familiar arguments by which the religious leaders under review echo the arguments of union leaders. These are the arguments from "majority rule" and "the free rider."

1. "Majority Rule"

In the argument from majority rule it is claimed that if a majority of workers in a given industry agree to join or at least financially support a union, then the rest of the workers should be required to do the same. It might be observed, incidentally, that many of those who insist upon majority rule at this point are singularly opposed to submitting right-to-work legislation to majority vote in public referendum, as witness the strenuous efforts in Ohio, California, Idaho, Colorado, Washington, and Kansas to keep the question off the ballot in the 1958 elections. So great was the pressure in at least one state, Ohio, that right-to-work leaders were led even to organize a campaign for the right to *vote* on the issue!

But the question remains: "Does a majority have a right to deny the rights of a minority?" In American tradition the rights of minorities have always been the object of concern and protection. Those who argue for "majority rule" frequently use the analogy of government, declaring that the minority in any political election must accept the verdict of the larger vote.

(a) *UNIONS ARE NOT GOVERNMENT*

The first flaw in this analogy, however, is the equation of a private organization *with* government, or at least with an arm of government. In the famous *Lincoln Union* case, testing the constitutionality of right-to-work laws in 1949, the AFL actually and ingeniously made such a claim before the Supreme Court:

> "The common rule of collective bargaining carries with it the legal doctrine that the union is the common authority for government of a society of workers. It has in a sense the powers and responsibilities of a government."

In upholding the constitutionality of right-to-work laws, the Court characterized the union claim as "startling."

The idea is not only startling but without parallel in the United States. The only countries which endow unions with governmental authority are those with totalitarian regimes, notably Spain, Soviet Russia, and the Russian satellite countries. (9) If labor unions may be properly empowered with coercive authority normally reserved for government, why not also the Church, the American Legion, the Chamber of Commerce, or the Society for Decent Literature? On what basis does organized labor claim title to coercive prerogatives to which no other private organization even pretends? In the words of Prof. Petro of New York University School of Law,

> "Nothing in our laws or traditions goes quite so far as to make unions a branch of government. Although the majority-vote principle is a step in that direction, it is quite impossible for us to go the whole way without vitiating the basic political principles of this society. . . . In this society, there is only one association in which membership is compulsory and universal; that association is the state. The state alone has responsibility in respect to all." (10)

(b) *MINORITIES MUST CONSENT*

A second flaw is the failure to recognize that a majority vote is applicable only within an organizational structure, public or private, in which prior consent has been given to accept the majority verdict. No moral or legal code in our democratic society can justify the use of majority vote to coerce a minority that has not consented to be included in the voting body. Protestants, being the religious majority in America, may not vote, and, by the claim of a majority, thereby coerce, Roman Catholics or Jews into the Protestant fold. The people of the United States, by outnumbering Canadians, may not vote that Canadians therefore pay taxes to our government.

Majority vote is, indeed, a sound principle *within* a democratic structure in which all members have a voice; but to confuse it with the concept proposed by and in behalf of organized labor to use a majority to bring unwilling outsiders *into* the organization is a monstrous distortion of the meaning of democracy.

(c) *RIGHTS NOT SUBJECT TO MAJORITIES*

A third flaw is the false assumption that majority rule always has the final voice. Aside from the fact that in our society the government alone has the prerogative of compulsory obedience to its laws, the established government of the United States is constitutionally limited in its own encroachment upon individual liberties. The Bill of Rights defines areas of individual liberty which government may not invade, no matter how large a majority may favor such invasion. If majority vote may deny constitutional rights and liberties so long enjoyed and guaranteed in America, every individual and minority becomes vulnerable to any demagogue capable of commanding a majority following.

That a minority has rights is clearly evidenced by the fact that the out-voting of one political party by another does not mean that the losing minority is therefore required to join and support the victorious party. The losers, rather, are free to continue active opposition and to seek establishment of their own party in power at intervals of two to four years. Even compulsory military service is not for life.

Compulsory union membership, on the other hand, virtually eliminates effective opposition, thus becoming a "one-party" system, and, to all intents and purposes, is usually designed to continue for the working lifetime of every person involved. Such a consequence of "majority rule," so far from being democratic, becomes a monopoly power that is virtual tyranny.

The effects of such monopoly are especially glaring when a single union, such as the UAW, covers an entire industry. In an earlier era a workman who became dissatisfied with working for Ford could go to Chrysler or General Motors. Today, under industry-wide union monopoly, the workman who refuses to join the UAW at Ford, and therefore is fired, cannot secure, or at least cannot keep, employment at Chrysler or General Motors. There, too, he is confronted with the UAW and its union shop contract barring non-union workers. Such industry-wide monopoly prevails in a number of the larger unions.

The point becomes clear if we suppose, by way of another analogy, that the political party which wins the next national election were to seize or be given the authority to remain perpetually in power and deny citizenship to, and deport or liquidate, anyone who refused to belong to that party. Such foreclosure upon freedom of choice would be tyranny. The right to work, in permitting the freedom to choose, is the "two-party"

system that provides defense against tyranny in a union.

2. The "Free Rider"

The "free rider" argument is perhaps the favorite of religious leaders, coming within the scope of the question of individual responsibility. In the *Three Moral Studies* of the IAM, the Oblate Father says,

> "If employees are able to secure the benefits of the union without their burdens, members would tend to drop out and unions would become ineffective." (11) *

The Rabbi avers,

> "Union security agreements are merely devices . . . to distribute the cost of unionism among all persons who receive its benefits. Under such circumstances, can it be said that there is a moral . . . right to be free not to join the union. . . ?" (12)

The Methodist Dean declares,

> "Since collective bargaining is under present circumstances a proved condition of stable industrial relations, a worker has a moral obligation to accept his share of responsibility through membership in organized labor." (13)

---

* This claim is especially interesting in view of the argument often cited, that betwen 1947 and 1951 the voting conducted by the NLRB showed 91% of union members favoring the union shop. "Not until government conducted the elections required by the Taft-Hartley Act," Sumner Slichter of Harvard is quoted as saying, "did the country realize how strongly workers favor the union shop." If this argument has significance, why may not the same high percentage be supposed to be sufficiently in favor of unions not to drop out even though membership be voluntary? On the other hand, the vote does not reflect the feeling of the vastly larger number of workers who do *not* belong to unions.

The context of the Dean's appeal to "moral obligation" makes it clear that he, too, believes refusal to support the union in one's place of work is irresponsible riding on the backs of those who do share the responsibility.

Once again, from all these religious spokesmen, we have the specious arguing that unions are good and therefore workers should be forced to join!

But what they are really saying is this: If workers will not be saved from their own selfishness, irresponsibility, and freedom by *consent,* they must be saved by coercion! In words that have justified more than one totalitarian conquest, "We must go in and liberate!" If a man will not exercise his freedom in the way that union leaders and their spiritual advisors think he should, then his freedom should be proscribed. As expressed by the National Council of Churches statement,

> "Wherever a limitation or a restriction of freedom has been set or permitted by law, it means that the public has decided that some social value has been selected as having greater merit than the right of a worker to employment on his own terms." (14)

One is led earnestly to ask if the religious spokesmen who express themselves in this way are aware of the full implications of what they are saying. For this is the morality of collectivism which has lost sight of individuals and forgotten that the primary social values are those that exist *for* individuals! It is identical with the morality which, extended to its logical conclusion, undergirds every totalitarian state. It is the dangerous and even cynical doctrine that to be a "responsible member of society" a man must go along with the crowd, no matter the direction the crowd is taking. It is the view that value is determined by plurality, that the majority is always right, and whoever stands against the stream of public opinion is a

maverick who must be compelled to knuckle under. It is to equate "social responsibility" with conformity!

(a) *OTHER GROUPS HAVE "FREE RIDERS"*

It is time, therefore, that the "free rider" argument, so basic to all defenses of compulsory unionism, be more searchingly analyzed by moral and religious thought. The first and most obvious objection to the argument is that, on the basis of it, *every* organization which claims to benefit individuals outside its own membership could justify compulsory support. Certainly the church could make this claim. Veterans' organizations, in securing bonuses and other considerations for all veterans, could properly require membership. Industry itself could demand a tax tribute, saying, "We provide the jobs, investing from ten to fifteen thousand dollars for every job created; we therefore demand that every beneficiary pay a fee to an Employer's Protective Association!" Unions are by no means alone in providing benefits!

(b) *"EXCLUSIVE REPRESENTATION" NO VALID ARGUMENT*

It is sometimes argued, however, by both religious and labor leadership, that unions are different from churches, fraternal organizations, or professional associations. All of these perform services, as do the labor unions, but "they are not required by law or custom to perform services for non-members as well as for members. . . . A union selected as the bargaining agent by a majority of workers in a unit is required to represent all the unit's workers. If the union fails to fairly represent all the employees in the unit, . . . the courts may rule that the union has violated the law." (15)

In other words, because the union is required to serve as exclusive bargaining agent, even for the employees who do not join, these non-union beneficiaries should be required to share the "burden" which the union carries. If they do not, they are "free riders."

What is almost invariably omitted or glossed over is the fact that union leadership *wanted* and *asked* for this inclusive representation. What is now conveniently, and perhaps understandably, characterized as a burden and responsibility was originally demanded as a privilege. No union, after winning an election as bargaining agent, wanted the rivalry of other unions or of individuals bargaining for themselves.

But the necessity of bargaining for those who still choose to stay out of the union, is only one face of the coin. The other is the necessity of workers who do not want any union, or at least the particular union, to accept the union's representation nevertheless! They are no longer free to bargain either for themselves or through some other union of their own choosing. The disadvantage is especially apparent in the case of the superior workman, who properly resents being confined to the pace and pay of the average as determined by the union contract whose terms he must accept.

The claim to an exceptional status for the unions because they have special obligations is therefore indefensible. To have written into law their demand upon the rest of the working community, and then to argue that, since they now have this "responsibility," they should be paid for exercising it, is the most absurd of moral reasoning. Its absurdity can be seen if we imagine that some one church secured from the state a decree making that church "exclusive agent" for the salvation of souls, and then demanded that everyone for whom it had acquired this "responsibility" make regular contributions to the church treasury!

(c) *DUES FOR MORE THAN COLLECTIVE BARGAINING*

There is further difficulty with the argument for "sharing the costs of collective bargaining," for a considerable portion of union dues is not used for collective bargaining at all. The McClellan Committee has revealed that at least some of the collected dues go into pockets where they do not belong. A still larger portion goes into political activity—just how much, has thus far not been revealed. Considering, however, that in the State of Michigan alone the CIO, by its own admission, contributed $328,519 to the Democratic Party in 1950, thereby capturing the main state offices, and that union political activity has since been greatly intensified in all forty-eight states, the proportion for political purposes must be enormous.

This use of dues for political purposes is no secret. Joseph L. Raub, Jr., attorney for the UAW, testified before the Supreme Court on December 7, 1956, as follows:

> "The only funds available to the union are those that come from dues, for the purpose of buying radio time, television time, and newspaper advertising. The small amount that has been able to be collected as voluntary dollars has all gone as contributions to the very small contributions to the candidates. . . . When he has paid his dues, [a union man] thinks he has paid for bargaining, for legislation, and for political activity. He doesn't feel he should pay a second time for political activity. . . . When he pays his dues, he has paid for his political action." (16)

The foregoing testimony assumes, of course, that every man who pays dues approves of the political opinions and candidates his dollars are made to support. If he does not approve, and should refuse to pay that portion of his dues not used exclusively for collective

bargaining, does he become a "free rider"? If he is nevertheless forced to pay, or else lose his job, it is difficult to see how his situation has become anything else than a form of political dictatorship!

(d) *NO "FREE RIDERS" — PATTERN FOR OPPRESSION*

More important than any of the foregoing, however, is the extension of the "free rider" argument to its logical conclusion. It should be noted that out of more than 60,000,000 in the total working force in America, only 15,000,000 to 17,000,000 now belong to organizations of labor—scarcely more than twenty-five per cent. If, therefore, unions are beneficial to society, by their pressures improving wages and conditions of work even for workers in unorganized industries, or if unions can clearly raise the standard of living wherever they are permitted to take hold, *then it must follow that every working man and woman should be required to join or financially support union organization! On the basis of the arguments advanced by the religious spokesmen, there can be logically no limit to the extension of compulsory unionism. If union membership is to be so strongly insisted upon as a matter of social responsibility and because unions are beneficial, religious leaders, to be consistent, must demand unionization of all workers in all industry and ask for laws compelling this universal membership! There must be no "free riders" anywhere!*

That this is, indeed, the long-range purpose of at least some labor leaders seems abundantly evident. *In giving moral sanction to compulsory unionism, religious leaders are wittingly or unwittingly supporting this purpose. That this is the full implication of the argument against "free riders" must be frankly faced,*

and all who are asked to make a decision must determine whether total control of the working life in America by union power is what they want!

IV. IS THERE A RIGHT TO WORK?

The whole question reduces finally to the one of whether there is a right to work. The religious leaders under review, following again the labor leaders' line, take great pains to point out that the right to work does not mean the guarantee of a job. The claim is persistently made that the phrase "right to work" is a deliberate attempt to deceive by subtly suggesting that guaranteed employment is what is intended. I have yet to encounter anyone in favor of the right to work who even pretends that guaranteed employment is in any way involved. The suggestion that it is, is a fiction kept alive only by those who recognize but resist the real significance of the phrase.

"Right to work," as used by those who insist upon its importance, means nothing more nor less than the right to work at whatever job is available, unhindered by arbitrary conditions or by unreasonable restraints, whether imposed by statute, contract, or coercion. In this sense it has been repeatedly defined and defended by court decisions. No individual or group in America may legitimately go before a legislative body and secure a law that excludes anyone from employment for reasons of political, religious, racial, national, or other affiliation. By such legal benefit, the Supreme Court has noted,

> "a privileged class can be created and be then given a monopoly of the right to work in a special or favored position. Such a statute would shut the door, without hearing, upon many persons and classes of persons who were competent to serve and would deprive them of the liberty to work in a calling they were qualified to fill. . . . " (17)

As recently as 1957 the Supreme Court reaffirmed this historic meaning of the right to work by declaring that "a state cannot exclude a person from the practice of law . . . merely because he [is] a Republican or a Negro or a member of a particular church." (18)

I am quite certain that the religious spokesmen we are considering would defend the right to work against arbitrary interference, and recognize that it *is* arbitrary, when political, racial, or religious considerations are written into any legal document as conditions of employment. Indeed, liberal clergymen have been among the most vocal in defending the right to work in this sense. They would be the first to protest if a contract between a union and an employer were drawn forbidding employment to anyone who was not a member of the white race. *Yet this meaning of the right to work is no different in principle from that which declares that neither should any kind of contract make membership or non-membership in a union a condition of employment!*

UNIONS HAVE DEFENDED THE RIGHT TO WORK

As a matter of fact, in earlier days of the labor union movement, labor leaders and their supporters, both lay and clerical, have themselves espoused the right to work in this more specific sense. Under the old "yellow dog" contract, workers were denied the right to work if they *did* join a union, and the champions of organized labor protested until the "yellow dog" was outlawed. Today, with complete inconsistency, many of the same champions protest the right to work when laborers do *not* join a union.

In short, the concept of the right to work where a job is available, unhindered by arbitrary conditions

and unreasonable restraints, is derived to a considerable extent from the history of organized labor itself! To turn upon the right to work now, when it no longer serves the purposes of union leadership, is a reversal and denial of principle that is out of character for religious leaders who profess to be concerned for the rights of laboring people. They are defending the wholly inconsistent position that there is a right to work as a union man, but virtually no right to work as a non-union man!

AN INALIENABLE RIGHT!

The final defense against such confused morals is repeated insistence that there *is* a right to work. Labor leaders and their sympathisers are now denying that there is such a right, yet the right to employment where work is offered by an employer, subject only to the conditions which affect actual performance of the job, would seem to be of fundamental importance. Not only is it essential to personal survival and human dignity; it is as inalienable as the constitutionally guaranteed freedoms of worship, assembly, and speech.

The right to work without arbitrary interference has long been protected by common law in England and America. In practically all of the free countries of the European continent the right to work irrespective of union membership or non-membership is recognized by law. As long ago as 1791 the French Declaration of the Rights of Man provided that no person should be denied access to any line of employment because of the class or station in life into which he was born.

The 5th, 9th, and 14th Amendments of the Constitution of the United States implicitly protect the right to work. They prohibit the deprivation of "life, liberty, or property without due process of law," and forbid

abridgment of "the privileges and immunities of citizens." As affirmed in a memorable case by Justice Charles Evans Hughes,

> "It requires no argument to show that the right to work for a living in the common occupations of the community is of the very essence of the personal freedom and opportunity that it was the purpose of the [Fourteenth] Amendment to secure." (19)

In 1948, the General Assembly of the United Nations adopted a Universal Declaration of Human Rights which, no matter what one may feel about it in general, in Article XX specifically reads:

> "1. Everyone has the right to freedom of peaceful assembly and association.
> 2. No one may be compelled to belong to an association."

And further, in Article XXIII:

> "Everyone has the right to work, to free choice of employment, to just and favorable conditions of work, and to protection against unemployment." (20)

No one in the ranks of either labor or religion can deny the right to work, free of undue restraint, without betraying a long tradition and the moral precepts upon which the individual liberties of a free society depend. To compromise this freedom is to undermine the entire concept of freedom, especially as we have known it in America.

Arbitrarily to add to the compulsion which, as the National Council of Churches has observed, "is present in almost every association of individuals," and to try to justify further compulsion because more or less natural constraints already exist, is to fall into the error of a relativism and confusion of moral standards which can ultimately justify total control. If rights are not inalienable, they have no final defense in either law or morality against those who would infringe upon

such rights. If, as admitted even by a religious body that would deny the right to work, our fundamental rights and liberties are, indeed, "written in nature by the will of God," (21) no whim of convenience, popular opinion, or demagogic demand may be permitted to take them away on any pretext of religious or democratic morality.

V. "UNION SECURITY" NOT THREATENED

Permit me to make one more point. Almost all the religious leaders whose articles are under review make a strong point of "union security," and contend that establishing the right to work threatens this security. The suggestion is heightened by the persistent tendency to substitute the words, "union security agreement" for "union shop agreement," thus giving the impression that union security is synonymous with the union shop. The undisguised purpose of right-to-work to prohibit union shop contracts, along with "yellow dog" contracts, is thus made to appear as a direct assault upon the very existence of unions.

A few clarifications need to be made. The first is that proscription of the union shop in no way denies the right and freedom to organize a union *in* a shop, or even to have a hundred percent of the eligible employees as members. Strong unions exist and serve effectively as bargaining agents in many companies without union shop clauses in their contracts. The labor union movement began and achieved its initial strength almost entirely on a voluntary membership basis. There is little if any evidence that unions have suffered in any of the eighteen states which now guarantee the freedom of work irrespective of union membership. The right of collective bargaining, free from employer interference, has been so thoroughly established in modern labor law that destruction of a union from

outside is virtually impossible. Even the AFL-CIO is powerless to interfere seriously with the "security" of the unions it has seen fit to expel for corrupt practices. It has been pointedly observed that, "in fact, most unions have been able to secure a union shop only after they become so strong that they did not need it." (22) It is not compulsory membership *in itself* that makes unions strong, nor is it voluntary membership *in itself* that makes unions weak.

THE THREAT IS TO CORRUPTING POWER

Yet, it must not be assumed, as so often seems to be suggested by friends of the right to work, that organized labor will not be affected. Those who understand what is involved must see that recognition of the right to work will have a profound effect. *But the effect will not be upon "union security" in any sense of "wrecking" unions; the effect will be upon irresponsibility, autocracy, and corruption wherever these appear among union leaders. It is union leaders, not rank-and-file union members, who are most afraid of the right to work!*

The degree and kinds of corruption revealed in a considerable portion of the labor union movement has appalled even those who are inside the movement. Every responsible American, and especially every American of religious and moral sensitivity, wants the corruption stopped. *But so long as compulsory unionism remains, the invitation to the racketeers will continue to exist.* As Professor Petro has observed,

> "No human agency having the virtual privilege of both physical and economic coercion can escape a material degree of corruption. Establish an environment permeated with coercion and compulsion and you are bound to attract men who excel in those arts; if they do not excel at first, they will either have to learn or make way for more talented men." (23)

The attraction is there because, in the words of Maurice Franks, "Compulsory unionism is the easiest and most prolific form of shakedown yet devised!" (24)

It is this coervice power, which by its very nature invites and nourishes unethical practices, that voluntary unionism emphatically seeks to curb. It is against, not simply the corruption itself, *but the kind of power that cannot help breeding corruption,* that the conscience of America must be vigorously aroused.

ONLY THE FREE ARE REALLY STRONG

As a clergyman who is trying earnestly and honestly to come to grips with the social problems of our time, I keep returning to the analogy of the church. Not only is it one of the purposes of organized religion to bring conscience to bear upon the problems which arise in human relationships; it is also one of the privileges of organized religion to present the example of its own best achievements as a pattern for brotherhood on the basis of free and voluntary association.

The churches of America have long since learned that their vitality and saving power depend upon freedom of worship. The churches of America have become the strongest and most prosperous in the world, largely because the power of ecclesiastical authority, armed with the power of government to coerce support, was outlawed by the First Amendment to the Constitution. So far from hurting organized religion, the freedom to join or not to join has been one of the secrets of the church's greatness. To be sure, from a strictly organizational and administrative point of view, it might be easier and more convenient to have compulsory church membership and support; coercive power in the hands of some ecclesiastical hierarchy might conceivably bring greater peace, freedom from dissention, and

security for the clergy; but I know of no responsible religious authority in America who would ever dream of abandoning religious freedom for the sake of such convenience! It needs no arguing that men and women cannot be coerced into the Kingdom of God!

What is true for organized religion seems equally true for organized labor. The secret of its vitality as a responsible agency in society can be none other than the free choice of its members. Only a free and willing member can be a fully responsible member. Only a member who is free, without fear of reprisal, to speak out in constructive or critical challenge, or, if necessary, to withdraw his support, can exercise the democratic control which holds union leadership to its true function of responsible service.

It is admittedly more difficult to have a strong union on the basis of freedom of membership, as it is more difficult to have a strong church for the same reason. But the church or the union that is strong because it responsibly renders service in an attitude of concern for the integrity and dignity of individuals, is strong indeed! It is to this kind of organization of labor, free and clean and democratic, refusing to rely upon coercion and special privilege for its strength, and working with business and industry in responsible cooperation within a free economy, that the religious community may more properly lend its moral support.

REFERENCES

(1) Oxnam, G. Bromley, *Labor and Tomorrow's World,* pp. 150, 148, Abingdon-Cokesbury Press, New York, 1945.

(2) *Op. cit.* p. 151.

(3) Available from International Association of Machinists, Machinists' Building, Washington 1, D.C.

(4) California State Federation of Labor, 995 Market Street, San Francisco 3, California.

(5) Office of Publications and Distribution, National Council of Churches, 120 E. 23rd Street, New York 10, N. Y. 15c per copy.

(6) *Op. cit.,* pp. 8, 9.

(7) "Right-to-Work and Union Membership," adopted April 18, 1958, by the Board of Social and Economic Relations of the Methodist Church, 740 Rush Street, Chicago 11, Illinois.

(8) *Op. cit.,* p. 34.

(9) See Lenhoff, Arthur, "The Problem of Compulsory Unionism in Europe," article in *The American Journal of Comparative Law,* Winter, 1956.

(10) Petro, Sylvester, "Compulsory Unionism and Responsible Unionism," an address before the University of Chicago Law School, Oct. 11, 1957.

(11) *Op. cit.,* p. 21.

(12) *Op. cit.,* p. 38.

(13) *Op. cit.,* p. 55.

(14) *Op. cit.,* p. 9.

(15) *Labor's Economic Review,* January, 1956, p. 5, published by AFL-CIO, Washington 1, D.C.

(16) United States *v.* UAW.

(17) Smith *v.* Texas, 1914.

(18) Schware *v.* Board of Law Examiners, 1957.

(19) Truax *v.* Raich, 1915.

(20) Available from United Nations, Department of Public Information, New York City.

(21) See footnote 7.

(22) Gibson, J. C., "The Challenge to Compulsory Unionism," address delivered at Loyola University, Chicago, Illinois, May 7, 1957. The citation is from Shister, *Economics of the Labor Market,* Lippincott, 1956: "We thus find ourselves in the following paradoxical situation: all unions want a strong security clause; the weak unions who may need it as a protective device lack the bargaining power to obtain it, and the strong unions who obtain it do not really need it."

(23) *Op. cit.,* p. 5.

(24) "Victims of the Union Shop," p. 3, National Labor-Management Foundation, 101 E. Ontario Street, Chicago 11, Ill. Price 25c

IF YOU WANT TO INQUIRE FURTHER

This supplement to *New Perspectives in FAITH AND FREEDOM* constitutes the third in a series of studies examining policies and practices of current union leadership from a moral and religious point of view. The first of these studies, "Moral Standards and Union Power," outlines union practices in the light of ten moral standards drawn from our Judeo-Christian heritage. The second, "Only the Unjust Live by Force," looks at open and hidden violence. These are also available from Campbell House, single copies free, or 5c each up to 100. "The Rightness of the Right to Work," 10c each up to 100. Prices for larger quantities quoted on request.

Questions to be examined in future studies include:

Is union leadership using politics to gain legal immunities and privileges denied to others?

Are any unions developing concentrations of power verging on monopoly?

Are any union leaders discouraging individual dignity and opportunity, cooperative relationships, and an "honest-work-for-honest-pay" approach to industrial productivity?

Are any guilty of bearing false witness, betraying stewardship, or using union power for political ambition?

If any such cancers on the legitimate aspirations of working people and their organizations do in fact exist as a growing danger, what can be done about it?

If you would like to follow these studies as they appear, please use the form below without any further obligation than you decide later you would like to assume.

( ) YES, WITHOUT OBLIGATION, PLEASE SEND *New Perspectives in FAITH AND FREEDOM.*

(Readers are given a yearly opportunity to contribute as they see fit. Voluntary responses make continued operations possible. Many, especially clergymen, teachers, and students, make no financial contribution but become informally related to our activities. Others, especially business and community leaders, contribute from $5.00 upwards.)

( ) ENCLOSED IS....., FOR WHICH SEND.....COPIES OF ITEMS CHECKED (one copy free):

....."Moral Standards and Union Power"

....."Only the Unjust Live by Force"

....."The Rightness of the Right to Work"

( ) PLEASE QUOTE PRICES FOR ITEMS CHECKED IN QUANTITY OF.....

Name.....

Address.....

I am a Clergyman ( ), Teacher ( ), Student ( ), Other ( ).

IN THIS PAMPHLET

You will find answers to the following questions:

Why do many workers resist union membership? pp. 3-4

What is the Right-to-Work controversy about? pp. 5-8

What are some clergymen saying in defense of compulsory unionism? pp. 8-12

What is overlooked in the National Council of Churches statement? pp. 12-16

What is wrong with the "majority rule" argument? pp. 16-20

What is wrong with the "free rider" argument? pp. 20-26

Is there a right to work? pp. 26-30

Whom will voluntary membership in unions really hurt? pp. 30-32

© Spiritual Mobilization, 1958
P.O. Box 877, San Jacinto Calif.
All rights reserved

CAMPBELL HOUSE, National Headquarters of
SPIRITUAL MOBILIZATION
P.O. Box 877, San Jacinto Calif.

Chicago Theo. Seminary
Hammond Library
5757 University Ave.
Chicago 37 Illinois

39

II

PAID
San Jacinto, California
Permit No. 12